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Attorneys for Complainant

**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

DAVID HOWARD PAKOZDI
1018 Enchanted Way
Pacific Palisades, CA 90272

Physical Therapist License No. PT 10216

Respondent.

Case No. 1D 2000 62502

OAH No. L-2003010850

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

In the interest of a prompt and speedy settlement of this matter, consistent with the public interest and the responsibility of the Physical Therapy Board of California of the Department of Consumer Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will be submitted to the Board for approval and adoption as the final disposition of the Accusation

PARTIES

1. Steven K. Hartzell (Complainant) is the Executive Officer of the Physical Therapy Board of California. He brought this action solely in his official capacity and is represented in this matter by Bill Lockyer, Attorney General of the State of California, by E. A. Jones III, Deputy Attorney General.

2. Respondent David Howard Pakozdi (Respondent) is represented in this proceeding by attorney Edgardo Gonzalez, whose address is Law Office, 1300 Clay Street, Suite

1 600, Oakland, CA 94612.

2 3. On or about February 17, 1981, the Physical Therapy Board of California
3 issued Physical Therapist License No. PT 10216 to David Howard Pakozdi (Respondent). The
4 License was in full force and effect at all times relevant to the charges brought in Accusation No.
5 1D 2000 62502 and will expire on April 3, 2004, unless renewed.

6 JURISDICTION

7 4. Accusation No. 1D 2000 62502 was filed before the Physical Therapy
8 Board of California (Board), Department of Consumer Affairs, and is currently pending against
9 Respondent. The Accusation and all other statutorily required documents were properly served
10 on Respondent on November 7, 2002. Respondent timely filed his Notice of Defense contesting
11 the Accusation. A copy of Accusation No. 1D 2000 62502 is attached as exhibit A and
12 incorporated herein by reference.

13 ADVISEMENT AND WAIVERS

14 5. Respondent has carefully read, fully discussed with counsel, and
15 understands the charges and allegations in Accusation No. 1D 2000 62502. Respondent has also
16 carefully read, fully discussed with counsel, and understands the effects of this Stipulated
17 Settlement and Disciplinary Order.

18 6. Respondent is fully aware of his legal rights in this matter, including the
19 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
20 counsel at his own expense; the right to confront and cross-examine the witnesses against him;
21 the right to present evidence and to testify on his own behalf; the right to the issuance of
22 subpoenas to compel the attendance of witnesses and the production of documents; the right to
23 reconsideration and court review of an adverse decision; and all other rights accorded by the
24 California Administrative Procedure Act and other applicable laws.

25 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
26 each and every right set forth above.

27 CULPABILITY

28 8. Respondent understands and agrees that the charges and allegations in

1 Accusation No. 1D 2000 62502, if proven at a hearing, constitute cause for imposing discipline
2 upon his Physical Therapist License.

3 9. For the purpose of resolving the Accusation without the expense and
4 uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could
5 establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up
6 his right to contest those charges.

7 10. Respondent agrees that his Physical Therapist License is subject to
8 discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the
9 Disciplinary Order below.

10 CIRCUMSTANCES IN MITIGATION

11 11. Respondent David Howard Pakozdi has never been the subject of any
12 disciplinary action. He is admitting responsibility at an early stage in the proceedings.

13 RESERVATION

14 12. The admissions made by Respondent herein are only for the purposes of
15 this proceeding, or any other proceedings in which the Physical Therapy Board of California or
16 other professional licensing agency is involved, and shall not be admissible in any other criminal
17 or civil proceeding.

18 CONTINGENCY

19 13. This stipulation shall be subject to approval by the Physical Therapy Board
20 of California. Respondent understands and agrees that counsel for Complainant and the staff of
21 the Physical Therapy Board of California may communicate directly with the Board regarding
22 this stipulation and settlement, without notice to or participation by Respondent or his counsel.
23 By signing the stipulation, Respondent understands and agrees that he may not withdraw his
24 agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon
25 it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement
26 and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be
27 inadmissible in any legal action between the parties, and the Board shall not be disqualified from
28 further action by having considered this matter.

1 14. The parties understand and agree that facsimile copies of this Stipulated
2 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
3 force and effect as the originals.

4 15. In consideration of the foregoing admissions and stipulations, the parties
5 agree that the Board may, without further notice or formal proceeding, issue and enter the
6 following Disciplinary Order:

7 **DISCIPLINARY ORDER**

8 IT IS HEREBY ORDERED that Physical Therapist License No. PT 10216 issued
9 to Respondent David Howard Pakozdi is revoked. However, the revocation is stayed and
10 Respondent is placed on probation for three (3) years on the following terms and conditions.

11 1. RESTRICTION OF PRACTICE - MONITORING Within 30 days of the
12 effective date of this decision, respondent shall submit to the Board or its designee for its prior
13 approval a plan of practice in which respondent's practice shall be monitored by a physical
14 therapist, licensed to practice in the State of California, who shall provide periodic reports to the
15 Board or its designee.

16 2. If the monitor resigns or is no longer available, respondent shall, within 10
17 days, move to have a new monitor appointed, through nomination by respondent and approval by
18 the Board or its designee.

19 3. RESTRICTION OF PRACTICE - NO EMPLOYMENT OR
20 SUPERVISION OF PHYSICAL THERAPY STUDENT INTERNS Unless respondent has
21 obtained and provided to the Board or its designee, within 30 days of the effective date of this
22 stipulation, written and signed consents from all current student interns under his supervision and
23 from each physical therapy student intern's educational institution stating that the student intern
24 and the educational institution are aware of the respondent's disciplinary status and that each
25 consents to respondent's participation in the clinical training program, respondent shall not
26 supervise any physical therapy student interns during the entire period of probation. Respondent
27 must obtain, and provide to the Board or its designee, written consents, as described above, from
28 any future student interns and their respective educational institutions prior to commencing

1 supervision of such student interns. Absent the above noted written consents, respondent shall
2 terminate any such supervisory relationship in existence on the effective date of this probation.
3 Failure to timely obtain written consents shall constitute a violation of the probation order.

4 4. EMPLOYMENT OR SUPERVISION OF PHYSICAL THERAPISTS,
5 PHYSICAL THERAPIST ASSISTANTS AND PHYSICAL THERAPY AIDES Respondent's
6 employment or supervision of physical therapists, physical therapist assistants and physical
7 therapist aides is not limited except as provided by law. Respondent shall provide any and all
8 currently employed physical therapists, physical therapist assistants or physical therapy aides,
9 and any subsequently hired physical therapists, physical therapist assistants or physical therapy
10 aides written notice of the probation status of his license. Such notification shall be signed and
11 dated within thirty (30) days of the effective date of this stipulation by each physical therapist,
12 physical therapist assistant or physical therapy aide prior to the continuation of employment by
13 the respondent, or, as to subsequent hires, prior to commencement of employment, and a copy of
14 such notification shall be provided to the Board or its designee. Failure to timely make this
15 notification shall constitute a violation of the probation order.

16 5. EMPLOYMENT OR SUPERVISION OF PHYSICAL THERAPIST
17 LICENSE APPLICANTS, PHYSICAL THERAPIST ASSISTANT LICENSE APPLICANTS,
18 FOREIGN EDUCATED PHYSICAL THERAPIST LICENSE APPLICANTS Respondent's
19 employment or supervision of physical therapist license applicants, physical therapist assistant
20 license applicants, and foreign educated physical therapist license applicants is not limited except
21 as provided by law. Respondent shall provide any and all currently employed physical therapist
22 license applicants, physical therapist assistant license applicants, and foreign educated physical
23 therapist license applicants, and any subsequently hired physical therapist license applicants,
24 physical therapist assistant license applicants, and foreign educated physical therapist license
25 applicants written notice of the probation status of his license. Such notification shall be signed
26 and dated within thirty (30) days of the effective date of this stipulation by each physical therapist
27 license applicant, physical therapist assistant license applicant, and foreign educated physical
28 therapist license applicant prior to the continuation of employment by the respondent, or, as to

subsequent hires, prior to commencement of employment, and a copy of such notification shall be provided to the Board or its designee. Failure to timely make this notification shall constitute a violation of the probation order.

6. PROBATION MONITORING COSTS All costs incurred by the Board for probation monitoring during the entire period of probation shall be reimbursed by respondent up to a maximum of \$175.00 per month. Respondent will be billed at least quarterly. Failure to make the ordered reimbursement within 60 days of the billing shall constitute a violation of the probation order. In addition to the filing of an Accusation or the issuance of an administrative citation, the filing of criminal charges shall be sought when appropriate.

7. COST RECOVERY The respondent is ordered to reimburse the Board the actual and reasonable investigative and prosecutorial costs incurred by the Board in the amount of \$6,500. If respondent pays \$3,000.00 within sixty (60) days of the effective date of this stipulation, the balance shall be forgiven. Failure to timely make the \$3,000.00 payment may constitute a violation of the probation order and shall cause the whole amount (\$6,500.00) to be due and payable.

8. OBEY ALL LAWS Respondent shall obey all federal, state and local laws, and statutes and regulations governing the practice of physical therapy in California.

9. COMPLIANCE WITH ORDERS OF A COURT The respondent shall be in compliance with any valid order of a court. Being found in contempt of any court may constitute a violation of probation.

10. COMPLIANCE WITH CRIMINAL PROBATION AND PAYMENT OF RESTITUTION Should respondent be placed on criminal probation during the period of probation with the Board, respondent must not violate any terms and conditions of criminal probation and must be in compliance with any restitution ordered.

11. QUARTERLY REPORTS Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

12. PROBATION MONITORING PROGRAM COMPLIANCE Respondent shall comply with the Board's probation monitoring program.

13. INTERVIEW WITH THE BOARD OR ITS DESIGNEE Respondent shall appear in person for interviews with the Board, or its designee, upon request at various intervals and with reasonable notice.

14. NOTIFICATION OF PROBATIONAL STATUS TO EMPLOYERS The respondent shall notify all present or future employers of the reason for and the terms and conditions of the probation by providing a copy of the Accusation and the decision and order (stipulated settlement) to the employer. The respondent shall obtain written confirmation from the employer that the documents were received. If the respondent changes employment or obtains additional employment, the respondent shall provide the above notification to the employer and submit written employer confirmation to the Board within 10 days. The notification(s) shall include the name, address and phone number of the employer, and, if different, the name, address and phone number of the work location.

15. NOTIFICATION OF CHANGE OF NAME OR ADDRESS The respondent shall notify the Board, in writing, of any and all changes of name or address within ten (10) days.

16. PROHIBITED USE OF ALIASES Respondent may not use aliases and shall be prohibited from using any name which is not his legally-recognized name or based upon a legal change of name.

17. WORK OF LESS THAN 20 HOURS PER WEEK If the respondent works less than 192 hours in a period of three months, those months shall not be counted toward satisfaction of the probationary period. The respondent shall notify the Board if him works less than 192 hours in a three month period.

18. TOLLING OF PROBATION The period of probation shall run only during the time respondent is practicing within the jurisdiction of California. If, during probation, respondent does not practice within the jurisdiction of California, respondent is required to immediately notify the probation monitor in writing of the date that respondent's

1 practice is out of state, and the date of return, if any. Practice by the respondent in California
2 prior to notification to the Board of the respondent's return will not be credited toward
3 completion of probation. Any order for payment of cost recovery shall remain in effect whether
4 or not probation is tolled.

5 19. VIOLATION OF PROBATION If respondent violates probation in any
6 respect, the Board, after giving respondent notice and the opportunity to be heard, may revoke
7 probation and carry out the disciplinary order that was stayed. If an accusation or petition to
8 revoke probation is filed against respondent during probation, the Board shall have continuing
9 jurisdiction until the matter is final, and the period of probation shall be extended until the matter
10 is final.

11 20. CESSATION OF PRACTICE DUE TO RETIREMENT, HEALTH OR
12 OTHER REASONS Following the effective date of this probation, if respondent ceases
13 practicing physical therapy due to retirement, health or other reasons, respondent may request to
14 surrender his license to the Board. The Board reserves the right to evaluate the respondent's
15 request and to exercise its discretion whether to grant the request or to take any other action
16 deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the
17 tendered license, the terms and conditions of probation shall be tolled until such time as the
18 license is no longer renewable, the respondent makes application for the renewal of the tendered
19 license or makes application for a new license.

20 21. COMPLETION OF PROBATION Upon successful completion of
21 probation, respondent's license or approval shall be fully restored.

22 22. WRITTEN EXAM ON THE LAWS & REGULATIONS GOVERNING
23 THE PRACTICE OF PHYSICAL THERAPY Within 90 days of the effective date of this
24 decision, respondent shall take and pass the Board's written examination on the laws and
25 regulations governing the practice of physical therapy in California. If respondent fails to pass
26 the examination, respondent shall be suspended from the practice of physical therapy until a
27 repeat examination has been successfully passed.

28 23. PRACTICE OR PERFORMANCE OF PHYSICAL THERAPY WHILE

1 ON PROBATION It is not contrary to the public interest for the respondent to practice and/or
2 perform physical therapy under the probationary conditions specified in this disciplinary order.
3 Accordingly, in the opinion of the Board, no third party payor should remove respondent from
4 any list of approved providers based solely on his probationary status under this disciplinary
5 order.

6
7 ACCEPTANCE

8 I have carefully read the above Stipulated Settlement and Disciplinary Order and
9 have fully discussed it with my attorney, Edgardo Gonzalez. I understand the stipulation and the
10 effect it will have on my Physical Therapist License. I enter into this Stipulated Settlement and
11 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
12 Decision and Order of the Physical Therapy Board of California.

13 DATED: 03/24/04.

14
15 Original Signed By:
16 DAVID HOWARD PAKOZDI
Respondent

17
18 I have read and fully discussed with Respondent David Howard Pakozdi the terms
19 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
20 Order. I approve its form and content.

21 DATED: 03/24/04.

22
23 Original Signed By:
24 EDGARDO GONZALEZ
Attorney for Respondent

25
26 ENDORSEMENT

27 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
28 submitted for consideration by the Physical Therapy Board of California of the Department of

1 Consumer Affairs.

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3 DATED: 03/25/04.

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BILL LOCKYER, Attorney General
of the State of California

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Original Signed By:
E. A. JONES III
Deputy Attorney General

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Attorneys for Complainant

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DOJ Docket/Matter ID Number: 03575160-LA02 0747
Pakozdi Decision.wpd

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Exhibit A

Accusation No. 1D 2000 62502

**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

DAVID HOWARD PAKOZDI
1018 Enchanted Way
Pacific Palisades, CA 90272

Physical Therapist License No. PT 10216

Respondent.

Case No. 1D 2000 62502

OAH No. L-2003010850

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Physical Therapy Board of California, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on June 1, 2004.

It is so ORDERED April 30, 2004.

Original Signed By: Donald Chu, PhD, PT, President
FOR THE PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS